IN THE

Supreme Court of the United States

OCTOBERT TERM, 1974

No. 74-776

In the Matter of EDWARD JOHN KAZUBOWSKI,
Bankrupt, (No. P-BK-71-782)

ANNA A. PHELPS,

Petitioner,

vs.

WILLIAM H. CHRISTISON, Trustee of the Bankruptcy Estate of Edward John Kazubowski, Bankrupt, STEPHEN J. COVEY, Referee in Bankruptcy, BETTY DOLAR, also known as BETTY DOLAR KAZUBOWKI, Honorable ROBERT D. MORGAN, Judge, United States District Court for the Southern District of Illinois, Northern Division,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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(An Attorney at Law, admitted to the Roll of Attorneys in the United States District Court for the Southern District of Illinois on June 21, 1955)

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IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1974

NO.

In the Matter of EDWARD JOHN KAZUBOWSKI,
Bankrupt, (No. P-BK-71-782)

ANNA A. PHELPS,

Petitioner,

vs.

WILLIAM H. CHRISTISON, Trustee of the Bankruptcy Estate of Edward John Kazubowski, Bankrupt, STEPHEN J. COVEY, Referee In Bankruptcy, BETTY DOLAR, also known as BETTY DOLAR KAZUBOWSKI, Honorable ROBERT D. MORGAN, Judge, United States District Court For the Southern District of Illinois, Northern Division,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

The petitioner Anna A. Phelps respectfully prays that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals For the Seventh Circuit entered on September 27, 1974 in the bankruptcy estate of Edward John Kazubowski, being appeal No. 73-1892

in the court below.

Petitioner further prays that this Court utilize its certiorari jurisdiction before the rendition of judgment, or judgments, by the said court of appeals in petitioner's three (3) appeals numbered 74-1061, 74-1062 and 74-1063 each entitled: "In the Matter of Edward John Kazubowski, Bankrupt (No. P-BK-71-782) Anna A. Phelps, Petitioner-Appellant, vs. William H. Christison, Trustee of the Bankruptcy Estate of Edward John Kazubowski, Honorable Stephen J. Covey, Referee In Bankruptcy, United States District Court For the Southern District of Illinois, Northern Division, and The United States of America, Respondents-Appellees".

OPINIONS BELOW

The judgment and opinion of the Court of Appeals issued on September 27, 1974, not yet reported, appears as Appendix A attached hereto.

The decision and order of the district judge issued on August 1, 1973, is attached to the judg-

ment and opinion of the Court of Appeals and adopted by the Court of Appeals as their own opinion. (App. A).

The order of the REFEREE dated January 15, 1973 appears as Appendix B (Appeal No. 74-1062 in the court below).

The order of the REFEREE dated January 26, 1973 appears as Appendix C (Appeal No. 74-1063 in the court below).

The order of the REFEREE dated February 16, 1973 appears as Appendix D (Appeal No. 74-1061 in the court below).

The order of the REFEREE dated June 8, 1973 appears as Appendix E (Appeal No. 73-1892 in the court below).

The decision and order of the district judge dated August 1, 1973 appears as Appendix F (and also a part of App. A).

"Nunc pro tunc order affirming Referee on Review" re: Referee's Order of January 15, 1973, entered on December 4, 1973 "NUNC PRO TUNC MAY 2, 1973", by district judge, appears as Appendix G, (Appeal No. 74-1062

in the court below).

"Nunc pro tunc order affirming Referee on Review" re: Referee's Order of January 26, 1973, entered on December 4, 1973 "NUNC PRO TUNC MAY 2, 1973" by district judge, appears as Appendix H, (Appeal No. 74-1063 in the court below).

"Nunc pro tunc order affirming Referee on Review re: Referee's Order of February 16, 1973, entered on December 4, 1973 "NUNC PRO TUNC MAY 2, 1973", by district judge, appears as Appendix I, (Appeal No. 74-1061 in the court below).

The four (4) orders entered by the said court of appeals on April 16, 1974 and on May 2, 1974 re: the three (3) pending appeals numbered 74-1061, 74-1062 and 74-1063 are attached hereto as Appendices J, K, L and M respectively.

A copy of the Bankruptcy Claim Docket, certified on July 23, 1974, disclosing $13,724.39 paid to Betty Dolar, appellee, on 10-17-73, bearing the following notation: "(See ord. 6-8-73)", and disclosing $10,320 allowed on claim of Julia Chinlund, Executor of the Estate of John J. Angielczyk, deceased, is attached hereto as Appendix N.

JURISDICTION

The judgment and opinion of the said Court of Appeals was entered on September 27, 1974.

No petition for rehearing was filed.

This petition for a writ of certiorari is filed within 90 days from said date of September 27, 1974 (28 U.S.C. § 2101 (c)).

This Court's jurisdiction is invoked under 28 United States Code, Section 1254 (1) which provides:

> "Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods: (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after the rendition of judgment or decree."

The basis for federal jurisdiction in the court of first instance is 28 United States Code, Section 1334, which provides:

> "Bankruptcy matters and proceedings
> The district courts shall have original jurisdiction, exclusive of the courts of the States, of all matters and proceedings in bankruptcy."

The power to prescribe by general rules, the forms of process, writs, pleadings, and motions,

and the practice and procedure under the Bankruptcy Act is expressly conferred upon this Court pursuant to 28 United States Code, Section 2075.

In addition, this Court has power under 28 United States Code, Section 2106 to review the judgment and opinion of the court below entered on September 27, 1974.

Public importance in the administration of the Bankruptcy Act and more particularly, with the statutory duties imposed upon the office of the TRUSTEE immediately upon notice of his appointment have not been determined and should be settled by this Court.

The judgment and opinion of the said Court of Appeals has so far departed from the accepted and usual course of judicial proceedings, and so far sanctioned such a course by the district court and by the Bankruptcy Court, as to call for the exercise of this Court's supervision.

With respect to the three pending appeals in the court below, numbered 74-1061, 74-1062 and 74-1063, jurisdiction of this Court is invoked under

28 United States Code, Section 1254 (1), and, in addition, 28 United States Code, Section 2101(e) provides:

> "An application to the Supreme Court for a writ of certiorari to review a case before judgment has been rendered in the court of appeals may be made at any time before judgment."

Each case numbered 74-1061, 74-1062 and 74-1063, and the records upon appeal, were docketed on February 26, 1974 per order of the said court of appeals.

QUESTIONS PRESENTED

I. whether the judgment and opinion of the court below totally nullifies the statutory duties imposed upon the Trustee as unequivocally written under Order 17(1) and (2) of the General Orders In Bankruptcy, 28 U.S.C., 11 U.S.C. § 75 sub. a, (Section 47 sub. a of the Act), and 11 U.S.C. § 110 sub. f, (Section 70 sub. f of the Act).

(A) Whether the judgment and opinion of the court below is a wilful transgression of Article VI, Clause 2 of the United States Constitution.

II. Whether the court below has the power and duty, ancillary to the removal of the Trustee, to vacate all orders allowing claims, thus wiping the slate clean for a new Trustee to take over.

III. Whether the prime responsibility for the proper functioning of the Federal Judiciary, the jurisdiction of the Federal District Courts, and the practice and procedures in matters of Bankruptcies rests upon this Court.

CONSTITUTIONAL PROVISIONS INVOLVED

Article I, Section 8, Clause 4, United States Constitution, is set forth in Appendix O.

Article VI, Clause 2, United States Constitution, is set forth in Appendix O.

STATUTES INVOLVED

United States Code:

11 U.S.C. § 67(a)(8), (Section 39a(8) of the Bankruptcy Act), is set forth in Appendix P.

11 U.S.C. § 75 sub. (a), (Section 47 sub. a of the Bankruptcy Act), is set forth in Appendix P.

11 U.S.C. § 110 sub.(f), (Section 70 sub. f of the Bankruptcy Act), is set forth in Appendix P.

28 U.S.C. § 2075 is set forth in Appendix P.

BANKRUPTCY GENERAL ORDER INVOLVED

Bankruptcy General Order 17 (1), (2) and (3), 28 U.S.C., is set forth in Appendix Q.

STATEMENT OF THE CASE

The instant case, being appeal No. 73-1892 in the court below, supersedes three appeals of petitioner in this bankruptcy litigation in that three nunc pro tunc orders were issued by the district judge on Decmeber 4, 1973 "NUNC PRO TUNC MAY 2, 1973", thus giving preference to the order thereafter entered by the Referee on June 8, 1973. (App. B, C, D, E, F, G, H and I).

Petitioner is a creditor of the bankruptcy estate of Edward John Kazubowski, a party in interest, and was a tenant in possession of the real estate described in Schedule B-1 of the Petition of Bankruptcy until dispossessed by the sua sponte order of the Referee procured by the Trustee. (App.D).

Petitioner and the other member of the family of Edward John Kazubowski were induced by Attorney Charles A. Covey to pay $155.00 for the preparation and filing of a voluntary petition of bankruptcy for Edward John Kazubowski so as to obtain the relief in the Federal court theretofore at all times denied to Edward John Kazubowski in the courts of

the State of Illinois, to recover assets for the bankrupt's estate, and to obtain the release of the liberty of Edward John Kazubowski.

The bankrupt, Edward John Kazubowski, is a Dentist, having had his office and residence, constructed under the same roof, in the City of Kewanee, Henry County, Illinois.

The bankrupt is a divorced person by virtue of the final, divisible decree of divorce awarded to Betty Dolar Kazubowski from Edward John Kazubowski on June 13, 1966.

A separate property settlement decree was thereafter procured by Betty Dolar, a/k/a Betty Dolar Kazubowski, on August 31, 1966 without notice and without an opportunity afforded to Edward John Kazubowski at any time thereafter to be heard or to defend.

The property settlement decree provided for a total sum of $20,500 to be paid by Edward John Kazubowski to the divorced Betty Dolar Kazubowski.

$5,000 of the total sum of $20,500 was ordered to be in lieu of and in full satisfaction of all rights to alimony that the divorced Betty Dolar

may have.

Each party was ordered to pay their own attorney's fees, and their own obligations from and since November 20, 1965.

Each party was barred from any rights of dower, homestead and from any other kind in the property of the other, except that the joint tenancy interest of the divorced Betty Dolar in the real estate described therein, was ordered to be held by the divorced Betty Dolar Kazubowski as security only for the payment of the sum of $20,500.

Upon appeal from the separate property decree Edward John Kazubowski complied with the order of the court in presenting a $25,000 appeal bond to act as supersedeas pending the appeal.

The $25,000 appeal bond was approved and filed on September 16, 1966.

Betty Dolar proceeded in violation of the $25,000 supersedeas appeal bond and procured an order on September 23, 1966 for "alimony and attorney's fees".

Upon appeal from the additional and subse-

quent order procured on September 23, 1966, an additional $5,000 appeal bond was ordered to be filed by Edward John Kazubowski to act as additional supersedeas appeal bond.

Betty Dolar proceeded in violations of the additional $5,000 supersedeas appeal bond.

Thereafter, an additional $20,000 appeal bond was ordered to be filed by Edward John Kazubowski.

Betty Dolar proceeded in violations of the additional $20,000 supersedeas appeal bond, including a transfer and conveyance of her joint tenancy interest in the real estate in dispute to the secretary of one of her attorneys.

The secretary of Attorney Gregg A. Young made an immediate reconveyance of the same described real estate to Betty Dolar.

Monies and other properties in excess of the requirements specified in the said property settlement decree have been extracted, seized and confiscated by Betty Dolar from Edward John Kazubowski, from members of the family of Edward John Kazubowski,

including petitioner, and from three of the living sureties, margaret Gilio, Clarence W. Boling and Helen L. Boling.

No remedy for relief was afforded in the courts of the State of Illinois.

The petition of bankruptcy was filed on December 3, 1971, more than three years ago.

On December 6, 1971, the Referee appointed WILLIAM H. CHRISTISON, as RECEIVER of the Bankrupt's estate.

The RECEIVER nominated himself as the Attorney for himself as RECEIVER.

No complete inventory of all the property of the bankrupt has ever been filed by the RECEIVER.

On December 21, 1971, at the First Meeting of Creditors, the Referee conducted a limited examination of the bankrupt, to the exclusion of creditors, including petitioner.

Thereafter, on December 21, 1971, the Referee appointed WILLIAM H. CHRISTISON as the TRUSTEE of the bankruptcy estate. The TRUSTEE nominated himself as Attorney for himself as TRUSTEE.

The TRUSTEE did not prepare a complete in-

ventory of all the property of the bankrupt that comes into his possession as required under Order 17(1) of the General Orders In Bankruptcy, 28 U.S.C.

The TRUSTEE did not make report to the court, within five days after receiving notice of his appointment of the articles set off to the bankrupt according to the provisions of Section 47 of the Act, with the estimated value of each article, obstructing and defeating petitioner's right to file objections pursuant to Order 17(2) of the General Orders In Bankruptcy, 28 U.S.C.

The TRUSTEE did not make application for a duly court appointed appraiser.

The Referee did not appoint an appraiser in this estate as required under Section 70 sub. f of the Act, (11 U.S.C. § 110 sub. f).

The TRUSTEE did not perform the statutory duties imposed upon the TRUSTEES pursuant to Section 47a of the Act (11 U.S.C. § 75 sub. a), in that the TRUSTEE refused, failed and neglected to:

(3) account for and pay over to the estate all interest received;

(4) disburse money only by check or draft;

(5) keep records and accounts showing all amounts and items of property received and from what sources, all amounts expended and for what purposes and all items disposed of;

(6) set apart the bankrupt's exemptions allowed by law as claimed and report the items and estimated value thereof to the court as soon as practicable after his appointment;

(7) examine the bankrupt (a) at the first meeting of creditors or at other meetings specially fixed for that purpose, unless already fully examined by the referee, receiver, or creditors;

(8) examine all proofs of claim and object to the allowance of such claims as may be improper;

(10) furnish such information concerning the estate of which he is trustee and his administration as requested by parties in interest;

(12) report to the court in writing the condition of the estate, the amounts of money on hand, and such other details, within the first month after his appointment and every two months thereafter;

The TRUSTEE, nonetheless, sold and re-sold the same personal and real property of the bankrupt at public auction "free and clear of all liens, claims and encumbrances with said liens, claims and encumbrances to attach to the proceeds of the sale", but without ever having set forth whether the title

of the bankrupt was clear or merely in equity, subject to liens, claims and encumbrances, the amounts, the validity or priority.

The TRUSTEE made no objections to the created claim of $25,000 filed against the estate, and petition for nondischargeability, by Julia Chinlund, Executor of the Estate of John J. Angielczyk, a deceased co-surety on the $25,000 supersedeas appeal bond of Edward John Kazubowski, alleging $25,000 due and owing the decedent's estate as non-payment under the property settlement decree of August 31, 1966.

The TRUSTEE made no objections to the created claim, or joint claims, of Betty Dolar, filed against the estate alleging $50,330.98 due and owing as alleged additional "alimony and attorneys' fees" under the September 23, 1966 order procured in violation of the $25,000 supersedeas appeal bond of the bankrupt.

Petitions for removal of the TRUSTEE were filed on May 8, 1972 by the three living sureties-creditors, Margaret Gilio, Clarence W. Boling and

Helen Boling.

A petition for removal of TRUSTEE was filed on May 10, 1972 by the bankrupt, Edward John Kazubowski.

No hearings have ever been set on said petitions nor has any date for hearing ever been set on said petitions for removal of the TRUSTEE.

A hearing was had on petitioner's petition for removal of TRUSTEE on December 26, 1972.

The oral denial of said petition by the Referee on December 26, 1972 was thereafter reduced to a signed order on January 15, 1973, (App. B), being appeal No. 74-1062 in the said Court of Appeals.

HEARING ON MAY 2, 1973 UPON THREE CERTIFICATES OF REVIEW OF REFEREE'S ORDERS.

The district judge set May 2, 1973 for hearing upon three (3) Certificates of Review of the Referee re:

(1) Referee's order dated January 15, 1973 (denying petition for removal of TRUSTEE);

(2) Referee's order dated January 26, 1973 (suppressing and concealing objec-

> tions to PROCEEDINGS PRECEDING sale of real estate at public auction on December 12, 1972; and,
>
> (3) Referee's order dated February 16, 1973 (order procured by TRUSTEE without notice or opportunity to be heard or to defend, ordering petitioner to vacate premises and to turnover exclusive possession to TRUSTEE), being Appendices B, C and D.

In effect, "no hearing" was afforded to petitioner on May 2, 1973.

The district judge refused to set forth upon a separate document, or three separate documents, his oral announcements made on May 2, 1973 with findings of fact and conclusions of law pursuant to Rule 52(a) of the Federal Rules of Civil Procedure.

On May 25, 1973, petitioner commenced an original action in the said Court of Appeals for a writ of mandamus to compel the respondent-judge to perform judicial function.

The Court of Appeals did not issue a writ of mandamus.

On June 8, 1973, the Referee entered an order upon ex parte hearing, awarding Betty Dolar, Gregg A. Young, Campbell Andrews and Harper Andrews

$44,951.88 as a nondischargeable debt.

Petitioner filed timely petition for review of the Referee's order dated June 8, 1973.

Upon service of a copy of the Referee's Certificate of Review, petitioner filed a motion to remit to the Referee for preparation of Certificate of review pursuant to Section 39a(8) of the Act (11 U.S.C. § 67(a)(8)), and for other relief. (See App. A and F, Decision and Order of District Judge).

On August 1, 1973, the district judge issued a sua sponte Decision and Order in camera, without notice and without a hearing, affirming the Referee's order of June 8, 1973. (App. A and F).

The Claim Docket reveals, inter alia, $13,724.39 paid to Betty Dolar, appellee, on "10-17-73", bearing a notation" "(See ord. 6-8-73)". (App. N).

Thereafter, on December 4, 1973, the district judge issued three separate orders "NUNC PRO TUNC MAY 2, 1973", affirming Referee on Review re:

(1) Referee's order of January 15, 1973;
(2) Referee's order of January 26, 1973;
(3) Referee's order of February 16, 1973,

being Appendices G, H and I, and Appeals numbered 74-1061, 74-1062 and 74-1063 in the Court below.

REASONS FOR GRANTING THE WRIT

I. THE JUDGMENT AND OPINION OF THE COURT BELOW TOTALLY NULLIFIES THE STATUTORY DUTIES IMPOSED UPON THE TRUSTEE AS UNEQUIVOCALLY WRITTEN UNDER ORDER 17(1) AND (2) OF THE GENERAL ORDERS IN BANKRUPTCY, 28 U.S.C., 11 U.S.C. § 75 sub. a, (Section 47 sub. a of the Act), AND 11 U.S.C. § 110 sub.f, (Section 70 sub.f of the Act).

The power to legislate on the subject of bankruptcies is conferred expressly upon Congress which provides that Congress shall have the power "to establish . . . uniform Laws on the subject of Bankruptcies throughout the United States". United States Constitution, Article I, Section 8, Clause 4.

The power to prescribe the Bankruptcy Rules is expressly conferred upon this Court under 28 U.S.C. § 2075.

Order 17(1) of the General Orders In Bankruptcy, 28 U.S.C., prescribed by this Court unequivocally makes it the duty of the TRUSTEE "immediately upon entering his duties to prepare a complete inventory of all the property of the bankrupt or debtor that comes into his possession".

A complete inventory must, of course, set

forth whether the bankrupt's title to a piece of property is clear or merely in equity, subject to encumbrance.

11 U.S.C. § 110 sub. f, (Section 70 sub. f of the Bankruptcy Act), requires that the bankrupt's property be appraised and obviously a correct appraisal of the bankrupt's interest is impossible without knowing whether his title is encumbered.

Order 17(2) of the General Orders In Bankruptcy, 28 U.S.C., prescribed by this Court provides in pertinent part:

> "The trustee shall make report to the court,within five days after receiving the notice of his appointment. . . of the articles set off to the bankrupt . . . by him, according to the provisions of Section 47 of the Act, with the estimated value of each article; and any creditor . . . may file objections to the determination of the trustee within ten days after the filing of the report . . . "

No appraiser has been duly appointed by the Referee as required under 11 U.S.C. § 110 sub. f, (Section 70 sub. f of the Act).

There is no correct appraisal of all of the property of the bankrupt in this estate.

11 U.S.C. § 75 sub. a, (Section 47 sub. a of the Act) provides in pertinent part:

> "Trustees shall . . .(3) account for and pay over to the estates under their control all interest received by them . . . (5) keep records and accounts showing all amounts and items of property received and from what sources, all amounts expended and for what purposes and all items of property disposed of; (6) set apart the bankrupts' exemptions allowed by law, if claimed, and report the items and estimated value thereof to the court . . . (7) examine the bankrupt (a) at the first meeting of creditors or at other meetings specially fixed for that purpose . . . (8) examine all proofs of claim and object to the allowance of such claims as may be improper . . . (10) furnish such information concerning the estates of which they are trustees and their administration as may be requested by parties in interest; . . .(12) report to the courts in writing the condition of the estates, the amounts of money on hand . . . within the first month after their appointment and every two months thereafter . . ."

The TRUSTEE has simply refused, failed and neglected, by calculated omissions of statutory duties, to perform the statutory duties as unequivocally prescribed by this Court under Order 17(1) and (2) of the General Orders In Bankruptcy, 28 U.S.C., and, as unequivocally written by Congress under

11 U.S.C. § 75 sub. a, (Section 47 sub. a of the Act), and 11 U.S.C. § 110 sub. f, (Section 70 sub. f of the Act).

(A) THE JUDGMENT AND OPINION OF THE COURT BELOW IS A WILFUL TRANSGRESSION OF ARTICLE VI, CLAUSE 2 OF THE UNITED STATES CONSTITUTION.

The "Supremacy Clause" of the United States Constitution makes Federal Law the highest authority in every court in the nation.

The judgment and opinion of the court below is a refusal to adhere to Article VI, Clause 2 of the United States Constitution, a transgression of the jurisdiction conferred upon the Bankruptcy courts and of the Bankruptcy Law.

The recital of Kazubowski v. Kazubowski, 93 Ill. App.2d 126 by the court[1] below is remote and not related in any manner to the statutory duties imposed upon the office of the trust of the TRUSTEE as written by Congress and as prescribed by this Court.

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[1] None of the attorneys for appellee, Betty Dolar appeared for the 10 minute oral argument set on September 18, 1974. None of the other appellees filed appellee's brief.

II. THE COURT BELOW HAS THE POWER AND DUTY, ANCILLARY TO THE REMOVAL OF THE TRUSTEE, TO VACATE ALL ORDERS ALLOWING CLAIMS, THUS WIPING THE SLATE CLEAN FOR A NEW TRUSTEE TO TAKE OVER.

Order 17(3) of the General Orders In Bankruptcy, 28 U.S.C., prescribed by this Court, makes it the duty of the court to make an order requiring the TRUSTEE to show cause upon neglect to file any report or statement which it is made his duty to file or make by the Act or by the general orders.

11 U.S.C. § 11 sub. a(17), (Section 2a(17) of the Act), also provides for removal of TRUSTEES.

The Referee's Certificate of Review conceals the contested issues of the proceedings preceding the Referee's order dated June 8, 1973, inconsistent with the duties imposed upon the Referees under 11 U.S.C. § 67(a)(8), (Section 39a(8) of the Act).

Where the mischief done by the TRUSTEE extends back to the time of his appointment, the Court of Appeals has power, ancillary to the removal of the TRUSTEE, to vacate all orders allowing claims, thus wiping the slate clean for a new TRUSTEE to take over. In re Freeport Italian Bakery, Inc., 340 F.2d 50, 55 (C.A. 2nd 1965).

III. THE PRIME RESPONSIBILITY FOR THE PROPER FUNCTIONING OF THE FEDERAL JUDICIARY, THE JURISDICTION OF THE FEDERAL DISTRICT COURTS. AND THE PRACTICE AND PROCEDURES IN MATTERS OF BANKRUPTCY RESTS UPON THIS COURT.

The Bankruptcy Rules are prescribed by this Court under 28 U.S.C. § 2075.

Although the Federal District Courts have original jurisdiction of all matters and proceedings in bankruptcy under 28 U.S.C. § 1334, courts of bankruptcy, as such, are courts of limited jurisdiction.

First, Fifth and Fourteenth Amendment Federal Constitutional rights apply to bankruptcy proceedings.

None of the issues presented upon appeal for a judicial review and for a determination on the merits have been reviewed or determined, leaving the issues to persist and agitate.

The appellate jurisdiction of this Court, as well as the Bankruptcy Rules prescribed by this Court and the Bankruptcy Law legislated by Congress, would be defeated by unlawful action of the court below in the exercise of inherent power on the subject of bankruptcies.

CONCLUSION

For these reasons this Court should issue its writ of Certiorari to the court below to review the judgment and opinion issued on September 27, 1974, adopting and attaching the decision and order of the district judge dated August 1, 1973 as the judgment and opinion of the court below, and, as to review the three cases numbered 74-1061, 74-1062 and 74-1063 before the judgment, or judgments, are rendered by the court below.

Respectfully submitted,

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PETITIONER, PRO SE

(An Attorney at Law, admitted to the Roll of Attorneys in the United States District Court For the Southern District of Illinois on June 21, 1955)

APPENDIX A

United States Court of Appeals

UNPUBLISHED ORDER
NOT TO BE CITED
PER CIRCUIT RULE 28

For the Seventh Circuit
Chicago, Illinois 60604
Argued September 18, 1974

September 27, 1974

Before

Hon. JOHN S. HASTINGS, Senior Circuit Judge

Hon. WALTER J. CUMMINGS, Circuit Judge

Hon. WILBUR F. PELL, JR., Circuit Judge

In the Matter of EDWARD JOHN KAZUBOWSKI, Bankrupt,
ANNA A. PHELPS,
Petitioner-Appellant,
No. 73-1892 vs.
WILLIAM H. CHRISTISON, Trustee, et al.,
Respondents-Appellees.

Appeal from the United States District Court for the Southern District of Illinois, Northern Division.
No. P BK 7[illegible]-782
Robert D. Morgan, Judge.

ORDER

Appellant has appealed from a decision of the district court affirming a June 8, 1973, order of the referee in bankruptcy determining that the bankrupt was indebted to his former wife and her attorneys in the sum of $44,951.83 and that said debt was non-dischargeable. While bankrupt opposed the decision of the referee in the district court, he has not joined appellant, who is his sister and former attorney, in this appeal.

Prior to the September 18, 1974, date set for the appellate argument, both appellant and appellee Betty Dolar Kazubowski filed their briefs in this Court. However, when the case was called for oral argument, appellant attempted to appear specially and refused to argue the merits of her appeal or to

answer any questions of the Court regarding the merits. Since she has previously entered her pro se general appearance and her appeal had already been briefed by the parties, we will decide it on the briefs.

Appellee's claim was based upon an award in a divorce proceeding in the Illinois courts and the resulting attorneys' fees. Appellant fails to show that the referee or the court below erred in allowing appellee's claim or in denying discharge as to that debt. The Appellate Court of Illinois has rejected an attack on the divorce proceedings and the award therein.* Furthermore, the record shows that the amounts claimed by appellee and her attorneys were satisfactorily substantiated in proceedings before the referee. Therefore, for the reasons given in the attached decision and order of Judge Morgan, which we adopt as our own, the judgment should be affirmed.

Finally, we deny appellant's last-minute motions to vacate our orders in this appeal and in her appeals numbered 74-1061, 74-1062 and 74-1063.

Judgment affirmed.

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* See Kazubowski v. Kazubowski, 93 Ill.App.2d 126, 235 N.E.2d 664 (1968), certiorari denied, 393 U.S. 1117.

FILED

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
NORTHERN DIVISION

WILLIAM J. LUHR, CLERK

In the Matter of	)	
	)	IN BANKRUPTCY
EDWARD JOHN KAZUBOWSKI,	)	
	)	NO. P BK 71 782
Bankrupt.	)	

DECISION AND ORDER

This matter is again before the court on a new Certificate of Review from the Referee in Bankruptcy. The issue presented for review, as stated in said Certificate, is whether the Referee was correct in finding, on June 8, 1973, that the bankrupt "was indebted to Betty Dolar, a/k/a Betty Dolar Kazubowski, Gregg A. Young, and Andrews and Andrews in the amount of $44,951.88, and that said debt was nondischargeable."

Since filing of said Certificate, with attachments, on June 26, 1973, Anna A. Phelps, the bankrupt's sister, former attorney and a creditor, acting pro se, has filed here a

> "MOTION TO REMIT TO REFEREE FOR PREPARATION OF CERTIFICATE OF REVIEW PURSUANT TO SECTION 39a(8) OF THE ACT (11 U.S.C. §67(a)(8), AND FOR CORRECTION AND AMPLIFICATION OF THE RECORD RE: PETITION FOR REVIEW OF THE ORDER FILED JUNE 8, 1973, FOR INJUNCTIVE RELIEF OR OTHER RELIEF, AND FOR AN INVESTIGATION OF FRAUD IN THIS BANKRUPTCY PROCEEDINGS."

The nauseous and oft repeated charges of illicit combination and fraudulent scheme to harm the bankrupt on the part of the Referee, the Trustee, the Judge, and others unnamed, having no factual allegations of any kind to support them, do not change the fact that the Certificate filed here by the Referee, with attachments recited therein, appears to comply fully with the statutes governing same. Accordingly, the "Motion to Remit" must be denied.

There is nothing whatsoever in the nature of allegations of fact in the record of this bankruptcy proceeding to indicate the slightest need for an "investigation of fraud." On the contrary, the petitioner here and the

bankrupt appear quite clearly to have had an inordinate amount of the attention of the Referee, the Trustee, and this court, as well as of the Court of Appeals, in conscientious efforts to identify some justiciable issue in each of their filings as they have appeared - - to no avail. Petitioner and her now bankrupt brother are clearly obsessed with the financial obligations of the bankrupt (long ago finally determined in Illinois divorce court proceedings) to bankrupt's former wife and her attorneys. It is readily apparent that, to petitioner, anyone who recognizes these facts of life becomes a conspirator. The Referee's brother, a practicing attorney, was retained by the bankrupt until it became apparent to him that the bankrupt and his sister were beyond help in objectively understanding this matter. Accordingly, no investigation for fraud is justified and none will be undertaken by this court in this matter on this petition.

Further hearing or proceedings on the issue presented for review would serve no useful purpose. The petition for review by Anna Phelps makes 111 specifications, in numbered paragraphs, attacking the Referee's order of June 8, 1973, and the proceedings in general as corrupt. It attaches Exhibits A thru H, most of which are already before the court with the Referee's Certificate, and the balance of which add nothing to the issue. In sum, except for the conclusions of fraudulent conspiracy in failure to review the proceedings leading to state court judgment, this petition simply seeks reversal of the Referee's order of June 8, 1973 as erroneous.

The bankrupt also files pro se petition for review of the same order. He claims pauper status and asks appointment of an attorney for himself, which is clearly not justified. His first complaint is lack of a jury trial on the issue of dischargeability, to which he was not entitled. He also wants review of the now final state court proceedings and objects to various procedural steps of the Trustee and the Referee herein.

When one realizes and simply accepts the fact that the judgments of the Illinois courts in the underlying divorce proceedings are final, having been held so by all Illinois and federal courts through denial of petition for

certiorari by the United States Supreme Court, the conclusions of the Referee herein are unavoidable and the dollar amounts are simply computation.

The prayer of the Anna Phelps' petition, that the undersigned judge disqualify himself because of a pending action in mandamus, is wholly insufficient and is denied.

Accordingly, IT IS ORDERED that the order of the Referee herein dated June 8, 1973, is in all respects AFFIRMED ON REVIEW, for the reasons stated by the Referee; and pursuant thereto:

(1) The amount of the debt due Betty Dolar Kazubowski, Andrews and Andrews, and Gregg A. Young, as of June 6, 1973, from the bankrupt is $44,951.88;

(2) The said debt is non-dischargeable under the clear provisions of Section 17a(7) of the Bankruptcy Act; and

(3) Said judgment against Edward John Kazubowski in favor of Betty Dolar Kazubowski, Andrews and Andrews, and Gregg A. Young on June 8, 1973, in the amount of $44,951.88, is affirmed on review and entered by this court.

Robert D. Morgan
United States District Judge

Entered: August 1, 1973

8/1/73

Copies sent to:
Edward John Kazubowski
Anna A. Phelps
William H. Christison
G. Michael Grow
Betty Dolar
Gregg A. Young
Andrews & Andrews
Stephen J. Covey

FILED
at ____ o'clock
JAN 15 1973

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
NORTHERN DIVISION

IN THE MATTER OF EDWARD JOHN KAZUBOWSKI, Bankrupt.	)	IN BANKRUPTCY No. P BK 71 782

ORDER

This matter coming on for hearing on the petion of ANNA A. PHELPS, creditor, to remove WILLIAM H. CHRISTISON as Trustee from the within proceeding, and the said ANNA A. PHELPS being present in open Court and representing herself and the said WILLIAM H. CHRISTISON, Trustee, being present in open Court and representing himself, and the Court having heard evidence and arguments of counsel:

IT IS ORDERED, ADJUDGED AND DECREED that said petition to remove Trustee be, and hereby is, denied.

Referee in Bankruptcy

7a

FILED
at ____ o'clock ____ M
JAN 26 1973
STEPHEN J. COVEY
Referee in Bankruptcy

APPENDIX C

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
NORTHERN DIVISION

IN THE MATTER OF)
EDWARD JOHN KAZUBOWSKI,) IN BANKRUPTCY
) No. P BK 71 782
Bankrupt.)

ORDER

This matter coming on for hearing on the report of auction sale and petition to confirm sale of real estate filed herein by WILLIAM H. CHRISTISON, the duly appointed, qualified and acting Trustee of the above bankruptcy estate, and the Court having heard objections to said report and petition and being fully advised in the premises:

IT IS ORDERED, ADJUDGED AND DECREED that said petition to confirm sale of real estate is hereby denied because of the inadequate purchase price in the amount of $14,500.00, which is less than 75% of the appraised value of said real estate and because the Trustee did not have exclusive possession of said real estate.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the earnest money in the amount of $1,450.00 received from DAVID F. GAMBLE and EVELYN GAMBLE, Kewanee, Illinois, be returned to them by said Trustee.

1/25/73

Referee in Bankruptcy

FILED
o'clock M
FEB 16 1973
STEPHEN J. COVEY
Clerk in Bankrupt

APPENDIX D

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
NORTHERN DIVISION

IN THE MATTER OF	)	
	)	IN BANKRUPTCY
EDWARD JOHN KAZUBOWSKI,	)	
	)	No. P BK 71 782
Bankrupt.	)	

O R D E R

This matter coming on for hearing on the petition of WILLIAM H. CHRISTISON for possession of the bankrupt's real estate and for an order on the bankrupt and his family to vacate the premises, and the Trustee appearing in open Court and the bankrupt not appearing but making default.

The Court finds that the matters and things set forth in the Trustee's petition are true.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that EDWARD JOHN KAZUBOWSKI, the above named bankrupt, ANNA A. PHELPS, sister of the bankrupt, MARY KAZUBOWSKI, mother of the bankrupt, and all other family members or other persons residing on the below described premises be, and they hereby are, ordered to vacate said premises and turn over possession of the same to WILLIAM H. CHRISTISON, Trustee in Bankruptcy herein, on or before March 12, 1973. Said premises are described as follows:

Lot Three (3) in Houle's Subdivision of Lot Seven (7) of the Original Town of Wethersfield, Henry County, Illinois, also described as Lot Three (3) in Block One (1) of Moore's replat of Lots Seven (7) and Twenty-two (22), Original Town of Wethersfield, now in the City of Kewanee, Henry County, Illinois.

C.C. Kazubowski
Phelps
Mary Kazubowski
2-16-73 jpl

Referee in Bankruptcy

APPENDIX E

FILED
at ____ o'clock ____ M
JUL 3 1972
STEPHEN J. COVEY
Referee in Bankruptcy

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
NORTHERN DIVISION

In the Matter of EDWARD JOHN KAZUBOWSKI, Bankrupt.	IN BANKRUPTCY No. P BK 71 782

This matter comes on to be heard upon the application of Betty Dolar, a/k/a Betty Dolar Kazubowski, the bankrupt's ex-wife, Gregg A. Young and Andrews & Andrews, the attorneys for the said Betty Dolar Kazubowski, asking that their debt against the bankrupt be declared to be non-dischargeable under the provisions of Section 17 of the Bankruptcy Act; and,

The Court having heard the testimony of the witnesses, having examined documentary evidence, having heard the arguments of counsel and being fully advised in the premises finds as follows:

STATEMENT OF FACTS, OPINION AND ORDER

On June 13, 1966, Betty Dolar Kazubowski was divorced from Edward John Kazubowski, the bankrupt herein, by the Circuit Court of Henry County. In the decree the matter of alimony and attorney fees was continued for further determination.

On August 15, 1966, a stipulation between the parties was filed with the Circuit Court of Henry County. This stipulation

provided in substance as follows:

1. The bankrupt was to pay Betty Dolar Kazubowski the sum of $20,500.00 as follows:

   $5,000.00 in cash on or before September 1, 1966. The balance of $15,500.00 to be paid in four annual installments commencing on the 1st day of September, 1967, and thereafter on the 1st day of September, in 1968, 1969 and 1970.

2. The bankrupt was to deliver to his ex-wife 50 shares of common stock of Illinois Power Company and 20 shares of common stock of General Telephone Company. It was agreed that the value of the stock was $3,570.00.

3. The bankrupt was to deliver to the plaintiff certain items of personal property located in the home of the parties such as furniture, dishes, etc.

4. Betty Dolar Kazubowski was to convey to the bankrupt her interest in the family home and the family automobile, bank accounts and savings and loan accounts, and certain gold coins and other gold for dental work.

5. $5,000.00 of the $20,500.00 was to be paid in full satisfaction of all alimony and was to be paid at the rate of $1,250.00 a year out the the four annual payments commencing on September 1, 1967.

This stipulation was incorporated into a Court decree entered by the Circuit Court of Henry County on the 31st day of August, 1966.

Thereafter the bankrupt appealed the order of August 31, 1966. On the 23rd day of September, 1966, the Circuit Court of Henry County ordered the bankrupt to pay his ex-wife $70 00 per week as equitable alimony until the appeal was disposed of. On May 2, 1969, the Circuit Court of Henry County entered a judgment

POOR COPY

in favor of the ex-wife against the bankrupt in the amount of $3,820.00 plus interest from March 12, 1969. This judgment represents the amount of unpaid temporary alimony as of March 12, 1969, pursuant to the decree of September 23, 1966.

The bankrupt appealed the decree of August 31, 1966, and the award of temporary alimony. These appeals were carried to the Illinois Appellate Court, the Illinois Supreme Court and the United States Supreme Court. In all instances the original decrees were affirmed. That after the decrees were affirmed, Betty Dolar Kazubowski instituted actions against John Angielczyk and Margaret Gilio, Clarence W. and Helen L. Boling, who were sureties on the appeal bonds, to recover the amounts due her. This proceedings included actions at the Trial Court and Appellate level.

Because of the extensive litigation created by the bankrupt and the sureties, the attorneys for Betty Dolar Kazubowski, Gregg A. Young and Andrews & Andrews, had to expend a considerable amount of time and money in representing Betty Dolar Kazubowski. On September 23, 1966, the Circuit Court of Henry County allowed Gregg A. Young $1,750.00 in fees for handling the initial appeal and ordered the bankrupt to pay it. On April 28, 1969, the Circuit Court of Henry County entered judgment against the bankrupt for attorney fees in favor of his ex-wife for Andrews & Andrews in the amount of $5,652.00 and in favor of his ex-wife for Gregg A. Young in the amount of $3,375.00, and in favor of his ex-wife for appeal expenses in the amount of $270.99. The total amount of the judgment was $9,297.99. The judgment covered all services for said attorneys up to April 16, 1969.

Since April 16, 1969, Andrews & Andrews and Gregg A.

Young have been required to perform additional services for Betty Dolar Kazubowski, proof of which has been made in this Court. This Court finds, as a matter of fact, that the fair and reasonable value of the services of Andrews & Andrews since April 16, 1969, is $13,902.00, and that the fair and reasonable value of the legal services of Gregg A. Young rendered since April 16, 1969, is $9,016.14. The Court, also, finds that said attorneys have paid expenses in the amount of $5,058.33. The Court, also, finds that Betty Dolar has expended money on fees for the Appellate Court proceedings to Attorneys Jenner and Block from Chicago in the amount of $1,928.88. All of these services were rendered by the attorneys in attempting to enforce the decrees of the Circuit Court of Henry County. That the total amount of fees earned and expenses, therefore, since April 16, 1969, is $27,905.35.

In summary, the total amount due Betty Dolar Kazubowski, Andrews & Andrews and Gregg A. Young, excluding interest on judgments and excluding all payments, is as follows:

August 31, 1966 decree	$20,500.00
August 31, 1966 decree, value of stock to be delivered	$ 3,570.00
August 31, 1966 decree, value of personal property to be delivered	$ 2,020.00
Court order of September 23, 1966 for attorney fees to Gregg A. Young	$ 1,750.00
Judgment order of May 2, 1969 for temporary alimony	$ 8,820.00
Judgment order of April 28, 1969 for attorney fees and expenses	$ 9,297.99
Allowance of fees made by the Court for services and expenses subsequent to April 16, 1969	$27,905.35
Total claim	$73,863.34

This Court will now analyze as to how these various amounts have been paid and will determine the balance still due. On March 25, 1969, the bankrupt paid $14,000.00 to his ex-wife and pursuant to an order of the Circuit Court of Henry County dated March 25, 1969, this money was applied as follows:

1. $5,000.00 on the initial payment due September 15, 1966, on the $20,500.00.
2. $3,875.00 due on the September 1, 1967 installment.
3. $3,875.00 due on the September 1, 1968 installment.
4. $675.00 interest on the first $5,000.00 payment.
5. $290.00 interest on the September 1, 1967 installment.
6. $207.00 interest on the September 1, 1968 installment.
7. $[illegible] on attorney fees due. The origin of [illegible] as unpaid to this Court.

On November 26, 1971, $6,200.37 was received from the Peoples National Bank of Kewanee from the bank account of the Bolings and was applied as follows:

1. $1,614.49 on the third installment due September 1, 1969.
2. $3,875.00 in payment of the September 1, 1969 installment.
3. $1,614.49 interest on the September 1, 1970 installment.
4. $356.89 credit on the September 1, 1970 installment.

On December 4, 1971, [illegible] was received from the Union Federal Savings and Loan Association from the account of the Bolings the sum of $1,585.10, which was applied on the September 1, 1970 installment.

On January 6, 1972, there was received from the LaSalle National Bank in Chicago from the Otlio account the sum of $5,115.66, and was applied as follows:

1. $1,239.31 was applied on interest on the $8,820.00 temporary alimony judgment.

2. $115.66 was applied on costs.

3. $3,760.69 was applied against the principal of the judgment.

The money collected from Otlio was applied on the temporary alimony judgment because she had signed the appeal bond in regard to that appeal.

On April 3, 1972, $10,920.82 was received from the Angielczyk Estate and was applied as follows:

1. Interest on September 1, 1970 installment, $34.08.

2. $1,931.95 applied on the balance of September 1, 1970 payment. This completed the payment of $20,500.00.

3. $8,570.00 was applied on the value of the stock that was retained by the bankrupt and never delivered.

4. $998.63 was applied on interest on the value of the stock.

5. $1,750.00 was applied on the allowance of the attorney fees of Gregg A. Young in the order of September 23, 1966.

6. $483.68 was applied on interest on the $1,750.00.

7. $563.92 was applied on interest on the value of $2,020.00 which was the value of the personal property not turned over.

8. $988.56 was applied against the principal amount of the value of the personal property not turned over.

Subsequently, thereto, pursuant to an order of this Court, certain items of personal property were turned over by the bankrupt to his

ex-wife; and, the Court finds that the obligation in regard to the delivery of the personal property in the value of $2,020.00 has been fully satisfied.

The total amount paid to date, therefore, is $37,283.51. Analyzing the payments, it is clear that the following debts have been paid in full:

1. $20,500.00 due under the August 31, 1965 decree.
2. $2,570.00 due for the value of the stock retained.
3. $2,020.00, value of the personal property.
4. $1,750.00 to Gregg A. Young in full payment of the order of September 23, 1969.

It is, also, clear that the following amounts remain due on the judgment for temporary alimony:

1. $5,060.00 plus interest at the rate of 6 per cent per annum from January 6, 1972 to June 6, 1973, in the amount of $429.96 or a total of $5,489.96.
2. The judgment of April 28, 1969 in the amount of $9,297.99. Interest on said judgment to June 6, 1973 is $2,258.58 and, therefore, the total amount due on said judgment is $11,556.57.

Nothing of course has been paid on the $27,905.35 of fees allowed by this Court for services rendered subsequent to April 15, 1969. The total amount still due, therefore, from the bankrupt to Betty Dolar Kazubowski, Andrews & Andrews and Gregg A. Young as of June 6, 1973 is $44,951.88.

The next question is whether any or all of the debt is non-dischargeable.

The applicable section of the Bankruptcy Act is Section

11 U.S.C. (7) which provides as follows:

> " § 17. Debts Not Affected by a Discharge.
> a. A discharge in bankruptcy shall release a bankrupt from all of his provable debts, whether allowable in full or in part, except such as * * *
>
> * * * (7) are for alimony due or to become due, or for maintenance or support of wife or child, or for seduction of an unmarried female, or for breach of promise of marriage accompained by seduction, or for criminal conversion as excepted under clause (2) of this subdivision."

Under this Section it is clear that the balance due on temporary alimony of $3,489.96, is non-dischargeable under the express terms of the statute.

Attorney fees allowed in a divorce proceeding are not expressly dealt with by this statute but the reported cases have uniformly held that such fees are in the nature of support and maintenance and are non-dischargeable. (See Merriman v. Hawbaker, 5 F.Supp. 432 and Damon v. Damon, 283 F .2d 571 C. A. First, Matter of Gorski, 25 F.Supp. 551; Turman v. Turman, 438 F .2d 488, In re Brennan, 39 F.Supp. 1022.)

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the amount of the debt due Betty Dolar Kazubowski, Andrews & Andrews and Gregg A. Young as of June 6, 1973, from Edward John Kazubowski is $44,951.88.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that said debt is a non-dischargeable debt in accordance with Section 17a.(7) of the Bankruptcy Act.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that judgment is, hereby, entered in favor of Betty Dolar Kazubowski, Andrews & Andrews and Gregg A. Young against Edward John Kazubowski, bankrupt herein, in the sum of $44,951.88.

ENTERED at Peoria, Illinois, this 8th day of June, 1973.

STEPHEN L. WEAVER
Referee in Bankruptcy

COPIES TO:
EDWARD JOHN KAZUBOWSKI, R.F.D. #4, S. EUCLID AVE., PRINCETON, IL.
WILLIAM H. CHRISTISON, ATTY., 702 [illegible], PEORIA, IL.
G. MICHAEL GROW, ATTY., 718 COMML NT BK BLDG., PEORIA, IL.
BETTY DOLAR, 501½ E. PROSPECT, KEWANEE, IL.
GREGG A. YOUNG, ATTY., 103 S TREMONT ST., KEWANEE, IL.
ANDREWS & ANDREWS, ATTYS., 211 W SECOND ST., KEWANEE, IL.

BY: _____, Clerk

APPENDIX F

FILED

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
NORTHERN DIVISION

APR 1 1973

WILLIAM J. [illegible], CLERK

In the Matter of	)	
	)	IN BANKRUPTCY
EDWARD JOHN KAZUBOWSKI,	)	
	)	NO. P BK 71 782
Bankrupt.	)	

DECISION AND ORDER

This matter is again before the court on a new Certificate of Review from the Referee in Bankruptcy. The issue presented for review, as stated in said Certificate, is whether the Referee was correct in finding, on June 8, 1973, that the bankrupt "was indebted to Betty Dolar, a/k/a Betty Dolar Kazubowski, Gregg A. Young, and Andrews and Andrews in the amount of $44,951.88, and that said debt was nondischargeable."

Since filing of said Certificate, with attachments, on June 26, 1973, Anna A. Phelps, the bankrupt's sister, former attorney and a creditor, acting pro se, has filed here a

> "MOTION TO REMIT TO REFEREE FOR PREPARATION OF CERTIFICATE OF REVIEW PURSUANT TO SECTION 39a(8) OF THE ACT (11 U.S.C. §67(a)(8)), AND FOR CORRECTION AND AMPLIFICATION OF THE RECORD RE: PETITION FOR REVIEW OF THE ORDER FILED JUNE 8, 1973, FOR INJUNCTIVE RELIEF OR OTHER RELIEF, AND FOR AN INVESTIGATION OF FRAUD IN THIS BANKRUPTCY PROCEEDINGS."

The nauseous and oft repeated charges of illicit combination and fraudulent scheme to harm the bankrupt on the part of the Referee, the Trustee, the Judge, and others unnamed, having no factual allegations of any kind to support them, do not change the fact that the Certificate filed here by the Referee, with attachments recited therein, appears to comply fully with the statutes governing same. Accordingly, the "Motion to Remit" must be denied.

There is nothing whatsoever in the nature of allegations of fact in the record of this bankruptcy proceeding to indicate the slightest need for an "investigation of fraud." On the contrary, the petitioner here and the

bankrupt appear quite clearly to have had an inordinate amount of the attention of the Referee, the Trustee, and this court, as well as of the Court of Appeals, in conscientious efforts to identify some justiciable issue in each of their filings as they have appeared -- to no avail. Petitioner and her now bankrupt brother are clearly obsessed with the financial obligations of the bankrupt (long ago finally determined in Illinois divorce court proceedings) to bankrupt's former wife and her attorneys. It is readily apparent that, to petitioner, anyone who recognizes these facts of life becomes a conspirator. The Referee's brother, a practicing attorney, was retained by the bankrupt until it became apparent to him that the bankrupt and his sister were beyond help in objectively understanding this matter. Accordingly, no investigation for fraud is justified and none will be undertaken by this court in this matter on this petition.

Further hearing or proceedings on the issue presented for review would serve no useful purpose. The petition for review by Anna Phelps makes 111 specifications, in numbered paragraphs, attacking the Referee's order of June 8, 1973, and the proceedings in general as corrupt. It attaches Exhibits A thru H, most of which are already before the court with the Referee's Certificate, and the balance of which add nothing to the issue. In sum, except for the conclusions of fraudulent conspiracy in failure to review the proceedings leading to state court judgment, this petition simply seeks reversal of the Referee's order of June 8, 1973 as erroneous.

The bankrupt also files pro se petition for review of the same order. He claims pauper status and asks appointment of an attorney for himself, which is clearly not justified. His first complaint is lack of a jury trial on the issue of dischargeability, to which he was not entitled. He also wants review of the now final state court proceedings and objects to various procedural steps of the Trustee and the Referee herein.

When one realizes and simply accepts the fact that the judgments of the Illinois courts in the underlying divorce proceedings are final, having been held so by all Illinois and federal courts through denial of petition for

certiorari by the United States Supreme Court, the conclusions of the Referee herein are unavoidable and the dollar amounts are simply computation.

The prayer of the Anna Phelps' petition, that the undersigned judge disqualify himself because of a pending action in mandamus, is wholly insufficient and is denied.

Accordingly, IT IS ORDERED that the order of the Referee herein dated June 8, 1973, is in all respects AFFIRMED ON REVIEW, for the reasons stated by the Referee; and pursuant thereto:

(1) The amount of the debt due Betty Dolar Kazubowski, Andrews and Andrews, and Gregg A. Young, as of June 6, 1973, from the bankrupt is $44,951.88;

(2) The said debt is non-dischargeable under the clear provisions of Section 17a(7) of the Bankruptcy Act; and

(3) Said judgment against Edward John Kazubowski in favor of Betty Dolar Kazubowski, Andrews and Andrews, and Gregg A. Young on June 8, 1973, in the amount of $44,951.88, is affirmed on review and entered by this court.

Robert D. Morgan
United States District Judge

Entered: August 1, 1973

8/1/73

Copies sent to:
Edward John Kazubowski
Anna A. Phelps
William H. Christison
O. Michael Grow
Betty Dolar
Gregg A. Young
Andrews & Andrews
Stephen J. Covey

APPENDIX G

FILED

DEC 4 1973

WILLIAM J. LITTELL, CLERK

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
NORTHERN DIVISION

IN THE MATTER OF EDWARD JOHN KAZUBOWSKI, Bankrupt.	))))	IN BANKRUPTCY NO. P-BK-71-782

NUNC PRO TUNC ORDER
AFFIRMING REFEREE ON REVIEW
(Referee's Order of January 15, 1973)

At a hearing herein on May 2, 1973, this court orally announced to the parties in interest certain decisions denying three motions to remit to the Referee and, instead, affirming the three prior orders of the Referee herein which had been certified; and said orders were all duly set forth on the docket sheet herein by the clerk of court.

It now appearing that a growing body of respected judicial opinion finds merit in setting forth such decisions on review of Referee's orders and associated matters on separate documents, as possibly necessary for strict and careful compliance with Rules 54(a) and 58, Federal Rules of Civil Procedure, on this court's own motion, therefore, and nunc pro tunc May 2, 1973,

IT IS ORDERED that Motion of Anna A. Phelps, filed March 2, 1973, "to Remit to Referee for Correction and Amplification of the Record Re: Petition for Review of Order of Referee in Bankruptcy, Dated and Entered January 15, 1973, for Injunctive Relief, and for an Investigation of Fraud in this Bankruptcy Proceeding" is DENIED.

FURTHER ORDERED that the said Order of the Referee in Bankruptcy herein, dated January 15, 1973, wherein petition to remove trustee herein was denied by said Referee, is in all respects AFFIRMED ON REVIEW.

Robert D. Morgan
United States District Judge

Entered: December 4, 1973
Nunc pro tunc May 2, 1973

APPENDIX H

FILED

DEC 4 1973

WILLIAM J. LITTELL, CLERK

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
NORTHERN DIVISION

IN THE MATTER OF EDWARD JOHN KAZUBOWSKI, Bankrupt.	))))	IN BANKRUPTCY NO. P-BK-71-782

NUNC PRO TUNC ORDER
AFFIRMING REFEREE ON REVIEW
(Referee's Order of January 26, 1973)

At a hearing herein on May 2, 1973, this court orally announced to the parties in interest certain decisions denying three motions to remit to the Referee and, instead, affirming the three prior orders of the Referee herein which had been certified; and said orders were all duly set forth on the docket sheet herein by the clerk of court.

It now appearing that a growing body of respected judicial opinion finds merit in setting forth such decisions on review of Referee's orders and associated matters on separate documents, as possibly necessary for strict and careful compliance with Rules54(a) and 58, Federal Rules of Civil Procedure, on this court's own motion, therefore, and nunc pro tunc May 2, 1973,

IT IS ORDERED that Motion of Anna A. Phelps, filed March 2, 1973, "to Remit to Referee for Preparation of Certificate of Review Pursuant to Section 39a(8) of the Act [11 U.S.C. §67(a)(8)], and for Correction and Amplification of the Record Re: Petition for Review of the Order Entered and Filed January 26, 1973, for Injunctive or Other Relief, and for an Investigation of Fraud in this Bankruptcy Proceeding" is DENIED.

FURTHER ORDERED that the said Order of the Referee in Bankruptcy herein, dated January 26, 1973, wherein said Referee refused to confirm sale of real estate herein because the price was inadequate, is in all respects AFFIRMED ON REVIEW.

Robert D. Morgan
United States District Judge

Entered: Dec. 4, 1973
Nunc pro tunc May 2, 1973

APPENDIX I

FILED

DEC 4 1973

WILLIAM J. LITTEL, Clerk

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
NORTHERN DIVISION

IN THE MATTER OF EDWARD JOHN KAZUBOWSKI, Bankrupt.	))))	IN BANKRUPTCY NO. P-BK-71-782

NUNC PRO TUNC ORDER
AFFIRMING REFEREE ON REVIEW
(Referee's Order of February 16, 1973)

At a hearing herein on May 2, 1973, this court orally announced to the parties in interest certain decisions denying three motions to remit to the Referee and, instead, affirming the three prior orders of the Referee herein which had been certified; and said orders were all duly set forth on the docket sheet herein by the clerk of court.

It now appearing that a growing body of respected judicial opinion finds merit in setting forth such decisions on review of Referee's orders and associated matters on separate documents, as possibly necessary for strict and careful compliance with Rules 54(a) and 58, Federal Rules of Civil Procedure, on this court's own motion, therefore, and nunc pro tunc May 2, 1973,

IT IS ORDERED that Motion of Anna Phelps, filed March 21, 1973, "to Remit to Referee for Correction and Amplification of the Record Re: Petition for Review from Order of Referee in Bankruptcy Dated and Entered February 16, 1973, Ordering Petitioner to Vacate Premises and to Turn Over Possession to the Trustee of the Bankruptcy Estate" is DENIED.

FURTHER ORDERED that the said Order of the Referee in Bankruptcy herein, dated February 16, 1973, wherein said Referee ordered the bankrupt, his mother, and his sister to vacate real estate, the possession of which belonged to the bankrupt estate, is in all respects AFFIRMED ON REVIEW.

Robert D. Morgan
United States District Judge

Entered Dec. 4, 1973
Nunc pro tunc May 2, 1973

APPENDIX J

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

APRIL 16, 19 74

Before

Hon. LUTHER M. SWYGERT, Chief Judge

Hon. _____

Hon. _____

IN THE MATTER OF:
EDWARD J. KAZUBOWSKI

ANNA A. PHELPS, Petitioner-Appellant,

No. 74-1061 vs.

WILLIAM H. CHRISTISON, Trustee, etc., et al., Respondents-Appellees.

Appeal from the United States District Court for the Southern District of Illinois, Northern Division. (71 782 BK P)

It appears to the Court that the appellants brief was filed on February 26, 1974, that the appellees brief was due to be filed on or before March 28, 1974 and that the appellee(s) has (have) failed to file a brief. On consideration whereof;

IT IS ORDERED that the parties to this appeal show cause if any there be why this appeal should not be submitted to the Court for decision, without the filing of a brief by the appellee(s). Any request by an appellee for leave to file a brief instanter or for an extension of time in which to file a brief shall be accompanied by an affidavit showing good cause to permit the late filing.

Responses to this rule to show cause shall be filed with the Clerk of this Court on or before May 1, 1974.

APPENDIX K

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

A True Copy
Teste:

APRIL 16, 19 74

Before

Hon. LUTHER M. SWYGERT, Chief Judge

Hon. _____

Hon. _____

IN THE MATTER OF:
EDWARD J. KAZUBOWSKI, Bankrupt
ANNA A. PHELPS, Petitioner-Appellant,

No. 74-1062 vs.
WILLIAM H. CHRISTISON, Trustee, etc., et al., Respondents-Appellees.

Appeal from the United States District Court for the Southern District of Illinois, Northern Division. (71 782 BK P)

It appears to the Court that the appellants brief was filed on February 26, 1974, that the appellees brief was due to be filed on or before March 28, 1974 and that the appellee(s) has (have) failed to file a brief. On consideration whereof;

IT IS ORDERED that the parties to this appeal show cause if any there be why this appeal should not be submitted to the Court for decision, without the filing of a brief by the appellee(s). Any request by an appellee for leave to file a brief instanter or for an extension of time in which to file a brief shall be accompanied by an affidavit showing good cause to permit the late filing.

Responses to this rule to show cause shall be filed with the Clerk of this Court on or before May 1, 1974.

APPENDIX L

United States Court of Appeals

CER

For the Seventh Circuit
Chicago, Illinois 60604

True Copy:
Teste:

Clerk of the United States Court of Appeals for the Seventh Circuit.

APRIL 16, 1974

Before

Hon. LUTHER M. SWYGERT, Chief Judge

Hon.

Hon.

IN THE MATTER OF:
EDWARD J. KAZUBOWSKI, Bankrupt

ANNA A. PHELPS, Petitioner-Appellant,

No. 74-1063 VS.
WILLIAM H. CHRISTISON, Trustee, etc., et al., Respondents-Appellees.

Appeal from the United States District Court for the Southern District of Illinois, Northern Division. (71 782 BK P)

It appears to the Court that the appellants brief was filed on February 26, 1974, that the appellees brief was due to be filed on or before March 28, 1974 and that the appellee(s) has (have) failed to file a brief. On consideration whereof;

IT IS ORDERED that the parties to this appeal show cause if any there be why this appeal should not be submitted to the Court for decision, without the filing of a brief by the appellee(s). Any request by an appellee for leave to file a brief instanter or for an extension of time in which to file a brief shall be accompanied by an affidavit showing good cause to permit the late filing.

Responses to this rule to show cause shall be filed with the Clerk of this Court on or before May 1, 1974.

APPENDIX M

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

MAY 21, 1974

Before

Hon. LUTHER M. SWYGERT, Chief Judge

Hon. JOHN PAUL STEVENS, Circuit Judge

Hon. ROBERT A. SPRECHER, Circuit Judge

IN THE MATTER OF:
EDWARD J. KAZULO (sic), Bankrupt
ANNA A. PHELPS, Petitioner-Appellant,
No. 74-1061, 74-1062 and 74-1063 vs.
WILLIAM H. CHRISTISON, Trustee, etc., et al., Respondents-Appellees.

Appeal from the United States District Court for the Southern District of Illinois, Northern Division. (71 782 BK P)

On April 16, 1974 this Court issued "Rules to Show Cause" on respondents-appellees why these appeals should not be taken under advisement without the filing of any brief on behalf of said appellees. Said Rules to Show Cause issued pursuant to Circuit Rule 26(c) and F.R.A.P. 31(c). On April 30, 1974 the petitioner-appellant Anna A. Phelps, filed separate objections to the issuance of this Court's Rules to Show Cause in each of the above-entitled appeals. On consideration of all the foregoing,

IT IS ORDERED that petitioner-appellant "Objections" and included motions be and the same are hereby DENIED.

IT IS FURTHER ORDERED, in light of the fact that no response has been filed by respondents-appellees to this Court's Rule to Show Cause, that these three appeals be submitted to the Court for decision without oral argument and without the filing of respondents-appellees' briefs.

APPENDIX N

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ILLINOIS
NORTHERN DIVISION

I, STEPHEN J. COVEY a Bankruptcy JUDGE in and for said District, DO HEREBY CERTIFY that the attached copy of CLAIM DOCKET,

in the case of EDWARD JOHN KAZUBOWSKI

bankrupt, No. P BK 71 702, has been compared with the original thereof and that it is a complete and correct copy of such original as it appears of record and on file in my office.

IN TESTIMONY WHEREOF I have hereunto set my hand at PEORIA in said District, this 23RD day of JULY, 19 74.

Bankruptcy JUDGE

EXPIRES: JUNE 21, 1972

NAME OF BANKRUPT OR DEBTOR: EDWARD JOHN KA[illegible]SKI — 71782

CLAIM NO.	NAME AND ADDRESS OF CLAIMANT (and name and address of attorney, if any)	AMOUNT OF CLAIMS FILED AND ALLOWED	REMARKS
1	DATE FILED: JANUARY 27, 1972 UNION FEDERAL SAVINGS & LOAN ASSN 104 N. TREMONT ST., KEWANEE, ILL. ATTY: CHARLES BLACHINSKY 106 N. TREMONT ST., KEWANEE, ILL.	FILED $ 975.81 ALLOWED $	SECURED (G. 16.23.14 Ltr Ord 8-1-73)
2	DATE FILED: FEBRUARY 2, 1972 JULIA CHINLUND, EXECUTOR OF ESTATE OF JOHN J. ANGIELCZYK 330 EMMONS AVE., KEWANEE, ILLINOIS	FILED $ 25,000.00 ALLOWED $ 10320	~~PRIORITY~~ per stipulation
3	DATE FILED: MARCH 17, 1972 MARGARET GILIO 3701 SUNSET LANE, FRANKLIN PK, ILL.	FILED $ 5,145.66 ALLOWED $ -0-	~~PRIORITY~~ See #12 Duplicate
4	DATE FILED: MARCH 23, 1972 CLARENCE W. BOLING 516½ W. 1ST ST., KEWANEE, ILLINOIS	FILED $ 20,875.43 ALLOWED $ -0-	~~PRIORITY~~ See #13 Amended Cl
5	DATE FILED: MARCH 23, 1972 HELEN L. BOLING 516½ W. 1ST, KEWANEE, ILLINOIS	FILED $ 20,875.43 ALLOWED $ -0-	~~PRIORITY~~ See #13 Amended Cl
6	DATE FILED: APRIL 7, 1972 RUSSELL HUDDLESTON 2341 33RD ST., MOLINE, ILLINOIS	FILED $ 250.00 ALLOWED $	
7	DATE FILED: MAY 2, 1972 MARY KAZUBOWSKI 133 E. DIVISION ST., KEWANEE, ILL.	FILED $ 11,020.00 ALLOWED $	~~SECURED~~
8	DATE FILED: MAY 2, 1972 MARY KAZUBOWSKI 133 E. DIVISION ST., KEWANEE, ILL.	FILED $ 15,000.00 ALLOWED $	~~SECURED~~
9	DATE FILED: JUNE 6, 1972 BETTY DOLAR ATTY: MICHAEL GROW 718 COML NATL BK BLDG., PEO., ILL.	FILED $ 50,330.98 ALLOWED $ 44951.88	SECURED PA. 13,724.39 as sec (10-17-73) (Ltr Ord 6-8-73) 31,227.47

EXPIRES: JUNE 2¹ 1972

NAME OF BANKRUPT OR DEBTOR: EDWARD JOHN KAZ : KI

NO. AK 71 782

CLAIM NO.	NAME AND ADDRESS OF CLAIMANT (and name and address of attorney, if any)	AMOUNT OF CLAIMS FILED AND ALLOWED	REMARKS
10	DATE FILED: JUNE 15, 1972 MARY KAZUBOWSKI 133 E. DIVISION ST.,KEWANEE, ILL.	FILED $ 5,000.00 ALLOWED $	
11	DATE FILED: JUNE 15, 1972 ANNA KAZUBOWSKI PHELPS 133 E. DIVISION ST.,KEWANEE, ILL.	FILED $ 11,945.50 ALLOWED $	
12	DATE FILED: JUNE 15, 1972 MARGARET GILIO 3701 SUNSET LANE,FRANKLIN PK,ILL.	FILED $ 5,145.66 ALLOWED $	SECURED , DUPLICATE OF #3
13	DATE FILED: JUNE 15, 1972 CLARENCE W. BOLING & HELEN BOLING 516½ W. 1ST ST., KEWANEE, ILL.	FILED 28,722.16 ALLOWED $	SECURED AMENDS # 4 & 5
14	DATE FILED: JUNE 15, 1972 CLARENCE W. BOLING 516½ W. 1ST ST.,KEWANEE, ILL.	FILED $ 300.00 _ ALLOWED $	
15	DATE FILED: JUNE 15, 1972 MARY KAZUBOWSKI 133 E. DIVISION ST.,KEWANEE, ILL.	FILED $ 19,319.22 ALLOWED $	
16	DATE FILED: JULY 13, 1972 INTERNAL REVENUE TAXES P.O. BOX 745, CHICAGO, ILLINOIS U.S. ATTORNEY FOR THE SO. DIST. OF ILL. P.O. BOX 375,600 E. MONROE ST., SPRINGFIELD, ILL. 62705	FILED $ 122.33 _ ALLOWED $	PRIORITY TAXES
17	DATE FILED: April 10, 1973 City of Kewanee 200 W. Third Kewanee, Ill.	FILED $ 16.84 _ ALLOWED $	
	DATE FILED:	FILED $ _ _ _ _ ALLOWED $	

FORM OS 75 - REVISED SEP. 1968

CLAIMS REGISTER

UNITED STATES DISTRICT COURTS

APPENDIX O

United States Constitution:

Article I, Section 8, Clause 4
(U.S.C.A. Const. Art. 1, Sec. 8, cl. 4):
(1787) 1 Stat. 97

"The Congress shall have Power . . . To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;"

Article VI, Clause 2
(U.S.C.A. Const. Art. 6, cl. 2):
(1787) 1 Stat. 97

"This Constitution, and the Laws of the United States, which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

APPENDIX P
STATUTES

United States Code: (In force and effect in 1971)

11 U.S.C. § 67 sub. a(8) (1938) 52 Stat. 858. (Section 39 sub. a(8) of the Bankruptcy Act):

"Referees shall . . . (8) prepare promptly and transmit to the clerks certificates on petitions for review of orders made by them, together with a statement of the questions presented, the findings and orders thereon, the petition for review, a transcript of the evidence or a summary thereof, and all exhibits;"

11 U.S.C. § 75 sub. a (1938) 52 Stat. 861, (1963 amendment, subd. a(2), 77 Stat. 14), (Section 47 sub. a of the Bankruptcy Act):

"Trustees shall (1) collect and reduce to money the property of the estates for which they are trustees, under the direction of the court, and close up the estates as expeditiously as is compatible with the best interests of the parties in interest; (2) deposit all money received by them in designated depositories initially in demand deposits; and subsequently, if authorized by the court, in interest-bearing savings deposits, time certificates of deposit, or time deposits-open account; (3) account for and pay over to the estates under their control all interest received by them upon funds belonging to such estates; (4) disburse money only by check or draft on such depositories; (5) keep records and accounts showing all amounts and items of property received and from what sources, all amounts expended and for what purposes and all items of property disposed of; (6) set apart the bankrupts' exemptions allowed by law, if claimed, and report the items and estimated value thereof

to the courts as soon as practicable after their appointment; (7) examine the bankrupts (a) at the first meetings of creditors or at other meetings specially fixed for that purpose, unless they shall already have been fully examined by the referees, receivers, or creditors, and (b) upon the hearing of objections, if any, to their discharges, unless otherwise ordered by the court; (8) examine all proofs of claim and object to the allowance of such claims as may be improper; (9) oppose at the expense of estates the discharges of bankrupts when they deem it advisable to do so; (10) furnish such information concerning the estates of which they are trustees and their administration as may be requested by parties in interest; (11) pay dividends within ten days after they are declared by the referees; (12) report to the courts in writing the condition of the estates, the amounts of money on hand, and such other details as may be required by the courts, within the first month after their appointment and every two months thereafter, unless otherwise ordered by the courts; (13) make final reports and file final accounts with the courts fifteen days before the days fixed for the final meetings of the creditors; and (14) lay before the final meetings of the creditors detailed statements of the administration of the estates."

11 U.S.C. § 110 sub. f (1938) 52 Stat. 879, (1962 amendment, subd. f, 76 Stat. 572), (Section 70 sub. f of the Bankruptcy Act):

"The court shall appoint a competent and disinterested appraiser and upon cause shown may appoint additional appraisers, who shall appraise all the items of real and personal property belonging to the bankrupt estate and who shall prepare and file with the court their report thereof. Real and personal

property shall, when practicable, be sold subject to the approval of the court. It shall not be sold otherwise than subject to the approval of the court for less than 75 per centum of its appraised value. Whenever a sale of real or personal property of any bankrupt is made by or through an auctioneer employed by the court, receiver, or trustee, the auctioneer must be a duly licensed or authorized auctioneer in the place where the sale is to be conducted."

28 U.S.C. § 2075 (1964) 78 Stat. 1001; Judiciary and Judicial Procedure:

"The Supreme Court shall have the power to prescribe by general rules, the forms of process, writs, pleadings, and motions, and the practice and procedure under the Bankruptcy Act.

Such rules shall not abridge, enlarge, or modify any substantive right.

Such rules shall not take effect until they have been reported to Congress by the Chief Justice at or after the beginning of a regular session thereof but not later than the first day of May and until the expiration of ninety days after they have been thus reported.

All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect."

APPENDIX Q

Bankruptcy General Order 17, 28 U.S.C.:

"Order 17. Duties of Trustee

(1) The trustee shall, immediately upon entering upon his duties, prepare a complete inventory of all of the property of the bankrupt or debtor that comes into his possession, unless, prior thereto, a receiver or other officer has prepared such an inventory.

(2) The trustee shall make report to the court, within five days after receiving the notice of his appointment, unless further time is granted by the court, of the articles set off to the bankrupt or debtor by him, according to the provisions of section 47 of the Act, with the estimated value of each article; and any creditor or the bankrupt or debtor may file objections to the determination of the trustee within ten days after the filing of the report, unless further time is granted by the court.

(3) In case the trustee shall neglect to file any report or statement which it is made his duty to file or make by the Act or by these general orders, within five days after the same shall be due, it shall be the duty of the court to make an order requiring the trustee to show cause, at a time specified in the order, why he should not be removed from office. The court shall cause a copy of the order to be served upon the trustee at least three days before the time fixed for the hearing.

(4) All accounts of trustees and receivers shall be refereed as of course to the referee for audit, unless otherwise specially ordered by the judge."

((1) stands as amended March 3, 1958, 355 U.S. 969).